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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,660	11/12/2003	Gilbert Madrid	ENDOLOG.028C2	7268
20995	7590	07/26/2007		
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER BOUCHELLE, LAURA A	
			ART UNIT 3763	PAPER NUMBER
			NOTIFICATION DATE 07/26/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/706,660

Applicant(s)

MADRID ET AL.

Examiner

Laura A. Bouchelle

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 21-32 is/are pending in the application.
- 4a) Of the above claim(s) 1-9, 20-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/13/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group II, claims 24-32 in the reply filed on 5/14/07 is acknowledged.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 24, 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al (US 5472417) in view of McInnes et al (US 6451043). Martin discloses a catheter having a first lumen extending through the length of the catheter having an open proximal access port and an open distal access port, a second lumen extending between a proximal and distal port 45, wherein the distal port is spaced proximally apart from the distal end and includes a distal extension of the lumen that is occluded from the remaining portion of the second lumen by a plug 60. See Fig. 3. The device does not include an expandable member.

4. Claim 24 differs from Martin in calling for the second lumen to extend proximally and be occluded from the remaining portion of the second lumen. McInnes teaches a catheter having a

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second lumen that is occluded by a plug 28 and extends proximally from a port 17 to prevent fluids from passing back through the second lumen. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Martin to have the second lumen extend proximally beyond a plug as taught by McInnes to prevent fluid from flowing back through the second lumen.

5. Claims 25, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of McInnes as applied to claim 24 above, and further in view of Ha et al (US 6159195). Claims 25, 26 differ from the teachings above in calling for the catheter to have a reinforcing braided wire. Ha teaches an exchange catheter having a braided wire reinforcement member to provide adequate stiffness for axial push while maintaining enough softness to prevent injury to the patient (Col. 7, lines 25-40). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device of Martin in view of McInnes to have a braided reinforcement as taught by Ha to provide adequate axial stiffness while maintaining enough flexibility to avoid injuring the patient.

6. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of McInnes as applied to claim 31 above, and further in view of Miraki (US 5389087). Claim 32 differs from the teachings above in calling for a slit in the second lumen. Miraki teaches an exchange catheter having a first lumen and a second lumen, the second lumen having a slit 42 that allows for the guidewire to be removed without dislodging the catheter. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the device

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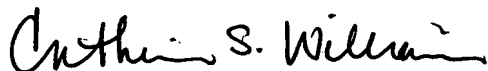
of Martin in view of McInnes to have a slit as taught by Miraki to allow for removal of the guidewire without dislodging the catheter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Bouchelle whose telephone number is 571-272-2125. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 517-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



CATHERINE S. WILLIAMS
PRIMARY EXAMINER

Laura A Bouchelle
Examiner
Art Unit 3763

